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Attorneys for Defendant
Morgan Stanley & Co., Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GARY E. AFFONSO,

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY; MORGAN STANLEY SMITH
BARNEY LLC (APPEARING AS MORGAN
STANLEY & CO., INC.); and MORGAN
STANLEY & CO., INCORPORATED, BASIC
AND SUPPLEMENTAL LIFE INSURANCE
PLAN: 501,

Defendants.

Case No. C 10-05054 PJH

**STIPULATION AND [PROPOSED]
ORDER CONTINUING BRIEFING AND
HEARING SCHEDULE FOR
DISPOSITIVE MOTIONS**

1 IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES:

2 Due to plaintiff Gary E. Affonso's ("plaintiff") pending motion for reconsideration
 3 regarding abuse of discretion review (ECF No. 96), plaintiff and defendants Metropolitan Life
 4 Insurance Company ("MetLife"), Morgan Stanley Benefits Plan ("Plan"), and Morgan Stanley
 5 & Co., Inc. ("Morgan Stanley") (collectively "defendants"), hereby respectfully request a
 6 continuance of the briefing and hearing schedule for dispositive motions.

7 The parties jointly propose the following schedule:

- 8
- 9 • The parties' cross-motions shall be heard on January 11, 2012 at 9:00 a.m., or as
 10 soon thereafter as is convenient to the Court's calendar. The parties understand that
 11 this hearing date may need to be changed because the proposed briefing schedule
 12 below may not allow for the related briefing to be completed in sufficient time prior
 13 to the new hearing date. In that instance, the parties will cooperate in selecting a
 14 mutually agreeable hearing date.

- 15 • The briefing schedule shall be modified, under the alternative schedules:

16 If plaintiff's motion for reconsideration is denied and the standard
 of review remains abuse of discretion per the July 6, 2011 Order:

- 17
- 18 • Defendants shall have 21 days from the date of the Court's order denying the
 19 motion for reconsideration to file their joint cross-motion and opposition to
 20 plaintiff's motion for summary judgment;
 - 21 • Plaintiff shall then have 21 days to file his opposition to defendants' cross-
 22 motion and his reply in support of his motion for summary judgment;
 - 23 • Defendants shall then have 14 days to file their joint reply brief.

24 If plaintiff's motion for reconsideration is granted, and the standard
 of review is changed from abuse of discretion to *de novo*:

- 25
- 26 • Plaintiff shall have 21 days from the date of the Court's order granting the
 27 motion for reconsideration to withdraw his currently pending motion for
 28 summary judgment (ECF No. 91), and file a new/substituted motion for
 summary judgment;

- Defendants shall then have 21 days to file their joint cross-motion and opposition to plaintiff's motion for summary judgment;
- Plaintiff shall then have 21 days to file his opposition to defendants' cross-motion and reply in support of his motion for summary judgment;
- Defendants shall then have 14 days to file their joint reply brief.

SO STIPULATED AND RESPECTFULLY REQUESTED:

DATED: September 26, 2011 GUY KORNBLUM & ASSOCIATES

By: /s/ Walter G. Crump (as authorized on 9/26/2011)
Walter G. Crump
Attorneys for Plaintiff
Gary E. Affonso

DATED: September 26, 2011 SEDGWICK LLP

By: /s/ Rebecca A. Hull
Rebecca A. Hull
Erin A. Cornell
Attorneys for Defendants
Metropolitan Life Insurance Company; Morgan Stanley
Benefits Plan

DATED: September 26, 2011 LAW OFFICES OF STEVEN A. ELLENBERG

By: /s/ Mark Boennighausen (as authorized on 9/25/2011)
Mark Boennighausen
Attorneys for Defendant
Morgan Stanley & Co., Inc.

ORDER

It is so ordered. The briefing schedule set forth in the parties' stipulation is adopted, and the hearing on the cross-motions for judgment shall be held on January 11, 2012 at 9:00 a.m.

DATED: 9/27/11

HONORABLE PHYLLIS J. HAMILTON
UNITED STATES DISTRICT COURT

